

**United States Government
National Labor Relations Board
OFFICE OF THE GENERAL COUNSEL**

Advice Memorandum

DATE: February 21, 2007

TO : Dorothy L. Moore-Duncan, Regional Director
Region 4

FROM : Barry J. Kearney, Associate General Counsel
Division of Advice

SUBJECT: American Cable Company
Case 4-CA-34669

512-7550-0133
512-7550-6000

The Region resubmitted this case for advice¹ as to (1) whether the alleged discriminatees employed as "group leaders" were supervisors within the meaning of Section 2(11) of the Act; and (2) if not, whether they were unlawfully terminated for attending "A Day Without Immigrants" demonstrations.

We agree with the Region that the alleged discriminatees were lawfully terminated for insubordination when they attended the "A Day Without Immigrants" demonstrations without permission to leave work.² We therefore find it unnecessary to decide whether the group leaders were supervisors, or whether attendance at the demonstrations was conduct protected by the "mutual aid or protection" clause of Section 7.

The Region should dismiss the charge, absent withdrawal.

B.J.K.

¹ See prior Advice Memorandum dated December 13, 2006.

² Leaving work without permission, even to participate in Section 7 activity, is not protected. See, e.g., Quantum Electric, 341 NLRB 1270, 1279 (2004) (citations omitted).